

IN RE: PETITION FOR ZONING VARIANCE  
SW 3/8 New Plant Court, 1300 ft.  
SW 1/4 Dolfield Road  
12 New Plant Court  
1st Election District  
1st Councilmanic District  
Daniel G. Schuster, et ux  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 91-75-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 254 to permit a height of 63.75 ft. in lieu of the maximum 40 ft. for a cement storage silo, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioner, Daniel G. Schuster, appeared and testified and was represented by Julius W. Lichter, Esquire. Appearing and testifying as Protestants were Neal Jacobs and Leslie Mensh of Dan-Mar, Inc., and represented by Lawrence J. Yunkas, Esquire. Also appearing and testifying as a Protestant was Ira Bormel on behalf of Universal Security Instruments.

Testimony indicated that the subject property known as 52 New Plant Road consists of .9 acres +/-, zoned B.M.-C.T. and is currently improved with the Schuster Concrete Company.

The Petitioner testified that he is desirous of constructing a third silo on the site for the processing of low alkaline cement. Mr. Schuster testified that the additional silo will not increase the plant's capacity, but merely provide an additional product (low alkaline cement) when requested. Petitioner's testimony indicated that should the requested relief be denied, the Petitioner would suffer an undue hardship and practical difficulty.

Mr. Neal Jacobs, Executive Vice-President for Dan-Mar, Inc., testified that they have experienced dust and noise from the Petitioner's property which adversely affects the use of the employee's courtyard. He indicated that dust collects on the employee's cars and requires that air filters located on his building be changed every thirty days in lieu of the normal 90 days. Mr. Jacobs also testified that large trucks associated with the Schuster operation frequently have parked along New Plant Road which make vehicular travel on that roadway difficult.

Mr. Leslie Mensh, Director of Personnel for Dan-Mar, Inc. and Ira Bormel of Universal Security Instruments generally concurred with the concerns of Mr. Jacobs.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App.

28 (1974).

-2-

PETITION FOR ZONING VARIANCE  
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 254 to permit a height of 63.75' in lieu of the maximum 40' for a cement storage silo

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

Schuster Concrete cannot make use of cement replacement additives such as Newcem cement and fly ash which increase the quality of ready-mix concrete without the additional silo. Schuster Concrete must be able to store low alkalide cement for State of Maryland specification jobs, and normal Portland cement for local contractors.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:  
(Type or Print Name)  
Signature  
Address  
City and State  
Attorney for Petitioner:  
(Type or Print Name)  
Signature  
Address  
City and State  
Attorney's Telephone No.:

Legal Owner(s):  
(Type or Print Name)  
Signature  
(Type or Print Name)  
Signature  
Address  
City and State  
Name, address and phone number of legal owner, contact purchaser or representative to be contacted  
City and State  
Name  
Address  
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 21 day of August 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 19th day of October, 1990, at 10:30 o'clock A.M.

(over)

COPIES RESERVED FOR FILING

1/11/91 3/22/91  
dual anytime  
est time for hearing - 1/2 to 45 min

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

It was undisputed at the hearing of this matter that Mr. Schuster's concrete operation is permitted as a matter of right in this M.L.-I.M. zone. The Protestants' evidence did not establish that the addition of the subject silo would, in any way, exacerbate the alleged dust and noise pollution on the subject site. Furthermore, it is clear that a practical difficulty or unreasonable hardship would result if the variance was not granted.

It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16th day of July, 1990 that the Petition for a Zoning Variance from Section 254 to permit a height of 63.75 ft. in lieu of the maximum 40 ft. for a cement storage silo, in accordance with Petitioner's Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever

-3-

reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines  
Zoning Commissioner  
for Baltimore County

JRH/rmm

cc: Peoples Counsel

CERTIFICATE OF PUBLICATION

TOWSON, MD., 9-25, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9-20, 1990

THE JEFFERSONIAN,

Publisher

\$ 76.45

CERTIFICATE OF PUBLICATION

TOWSON, MD., 9-25, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in OWINGS MILLS TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9-20, 1990

OWINGS MILLS TIMES,

Publisher

\$ 76.45

\$ 76.45

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance  
Case number: 91-75-A  
SW 3/8 New Plant Court, 1300 SW 1/4 Dolfield Road  
12 New Plant Court  
1st Election District  
1st Councilmanic District  
Petitioner(s):  
Daniel G. Schuster, et ux  
Hearing Date: Friday,  
Oct. 19, 1990 at 10:30 a.m.

Variance: to permit a height of 63.75 ft. in lieu of the maximum 40 ft. for a cement storage silo. In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing as above or presented at the hearing.

J. ROBERT HAINES  
Zoning Commissioner of Baltimore County  
OCT/19/90

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance  
Case number: 91-75-A  
SW 3/8 New Plant Court, 1300 SW 1/4 Dolfield Road  
12 New Plant Court  
1st Election District  
1st Councilmanic District  
Petitioner(s):  
Daniel G. Schuster, et ux  
Hearing Date: Friday,  
Oct. 19, 1990 at 10:30 a.m.

Variance: to permit a height of 63.75 ft. in lieu of the maximum 40 ft. for a cement storage silo. In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing as above or presented at the hearing.

J. ROBERT HAINES  
Zoning Commissioner of Baltimore County  
OCT/19/90



**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 4th Date of Posting: September 27, 1990

Posted for: Variance

Petitioner: Daniel G. Schuster, et ux

Location of property: SW/4 New Plant Court, 1300' SW of Dolfeld Road

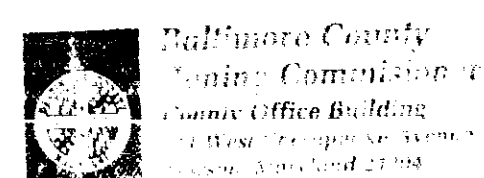
Road: SW/4 New Plant Court

Location of Sign: In front of 5+ New Plant Court

Remarks: S. J. Anata Date of return: September 28, 1990

Posted by: S. J. Anata Signature

Number of Signs: 1



RECEIPT  
No 3703

91-75

Cashier Validation

Please make checks payable to: Baltimore County

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner



Dennis F. Rasmussen  
County Executive

Your petition has been received and accepted for filing this  
21st day of August, 1990.

J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

Received By:

James E. Dyer  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Daniel G. Schuster

Petitioner's Attorney:

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

David G. Schuster  
52 New Plant Court  
Owings Mills, Maryland 21117

Re: Petition for Zoning Variance  
CASE NUMBER: 91-75-A  
SW/4 New Plant Court, 1300' SW of Dolfeld Road  
52 New Plant Court  
4th Election District - 3rd Councilmanic  
Petitioner(s): David G. Schuster, et ux  
HEARING: FRIDAY, OCTOBER 19, 1990 at 10:30 a.m.

Dear Mr. Schuster:

Please be advised that \$ 111.45 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

JRHigs



Dennis F. Rasmussen  
County Executive

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

August 27, 1990

### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance  
CASE NUMBER: 91-75-A  
SW/4 New Plant Court, 1300' SW of Dolfeld Road  
52 New Plant Court  
4th Election District - 3rd Councilmanic  
Petitioner(s): David G. Schuster, et ux  
HEARING: FRIDAY, OCTOBER 19, 1990 at 10:30 a.m.

Variance to permit a height of 63.75 ft. in lieu of the maximum 40 ft. for a cement storage silo.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County

cc: David G. Schuster, et ux



Dennis F. Rasmussen  
County Executive

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

October 12, 1990

Mr. & Mrs. Daniel G. Schuster  
52 New Plant Court  
Owings Mills, MD 21117

RE: Item No. 327, Case No. 91-75-A  
Petitioner: Daniel G. Schuster, et ux  
Petition for Zoning Variance

Dear Mr. & Mrs. Schuster:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures



Dennis F. Rasmussen  
County Executive



Maryland Department of Transportation  
State Highway Administration

Richard H. Trainor  
Secretary  
Hal Kassoff  
Administrator

April 9, 1990

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204  
Att: James Dyer

RE: Baltimore County  
Owings Mills Industrial  
Park  
Zoning meeting 4/10/90  
Daniel G. Schuster, Inc.  
SW/4 New Plant Court  
1300' south west of  
Dolfeld Road  
Item # 327

Dear Mr. Haines:

After reviewing the submittal for a variance to permit a height of 63.75 feet in lieu of the maximum 40 feet for a cement storage silo, we find the plan must be revised to reference the appropriate State Highway Administration (SHA) right-of-way plat along this property's frontage with the Northwest Expressway.

If you have any questions, contact Larry Brocato (333-1350).

Very truly yours,

Charles Rose  
Charles Rose, Acting Chief  
Engineering Access Permits  
Division

LB/es

cc: Mr. A.L. Snyder  
Mr. J. Ogle

My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech  
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-492-5052 Statewide Toll Free  
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: April 19, 1990  
Zoning Commissioner

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Daniel G. Schuster, Item No. 327

In reference to the Petitioner's request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

April 6, 1990

J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

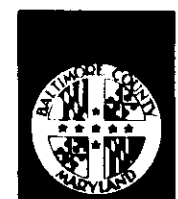
Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 322, 323, 325, 326, 327, and 328.

Very truly yours,

Michael S. Flanigan  
Michael S. Flanigan  
Traffic Engineer Assoc. II

MSF/lw



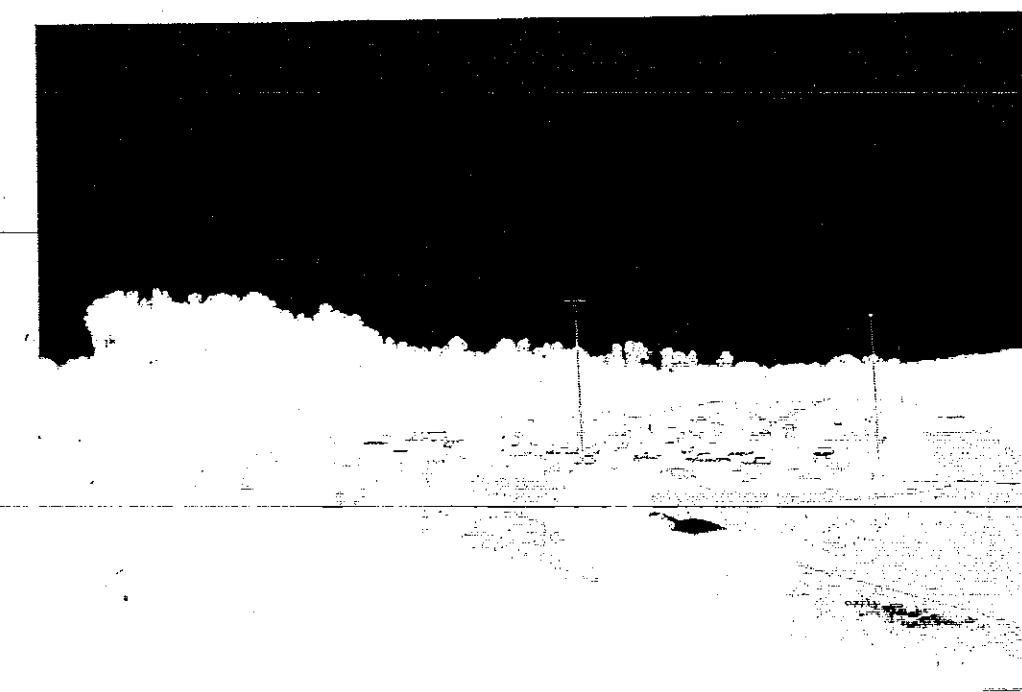
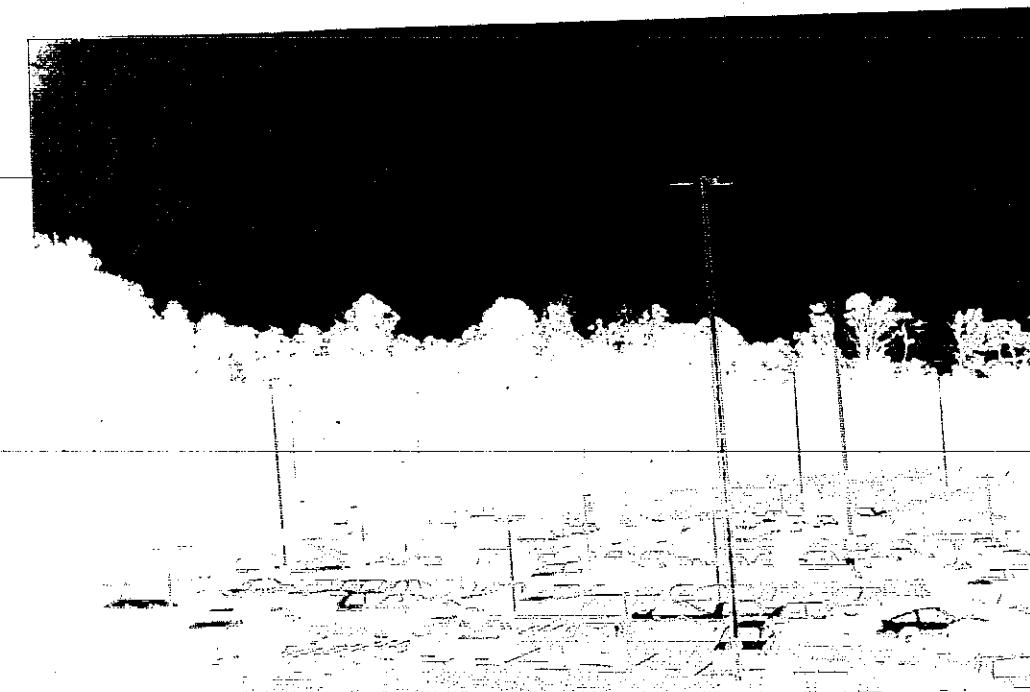
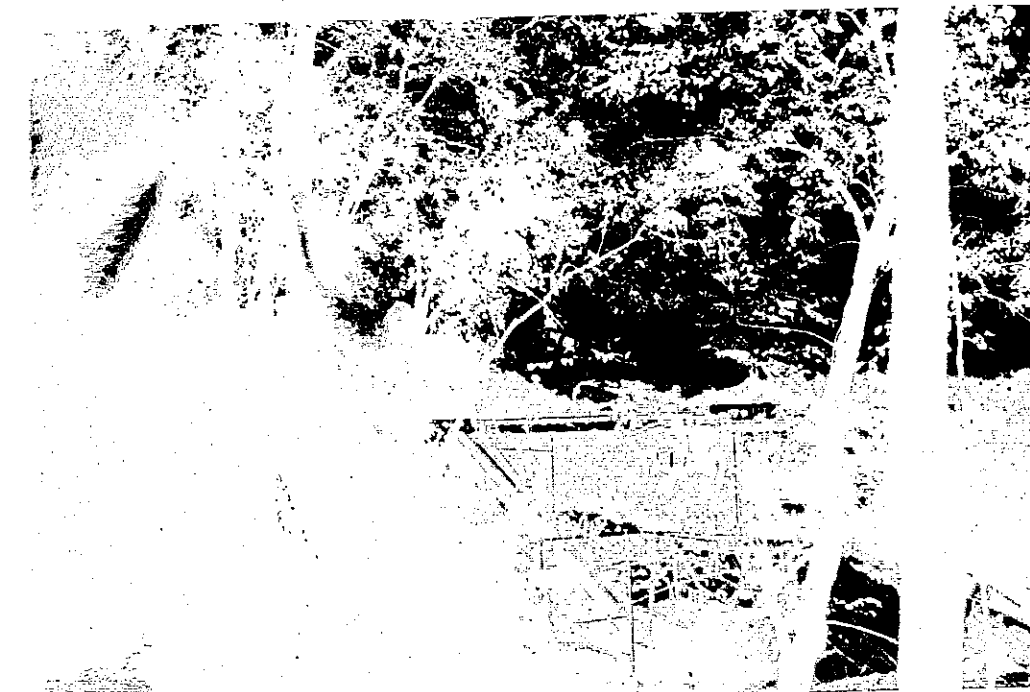
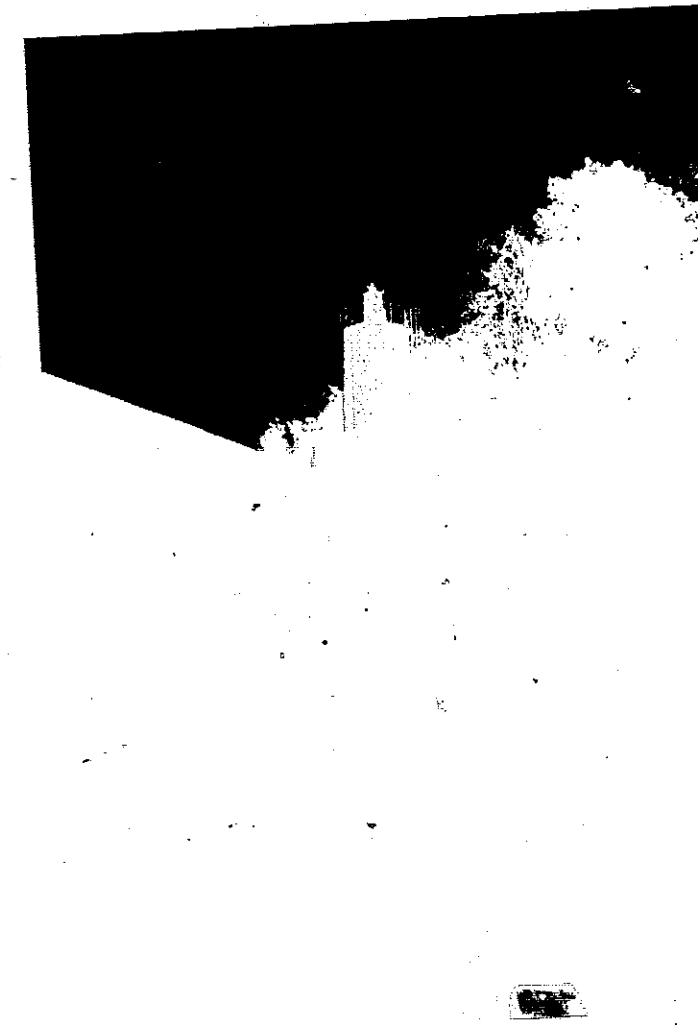
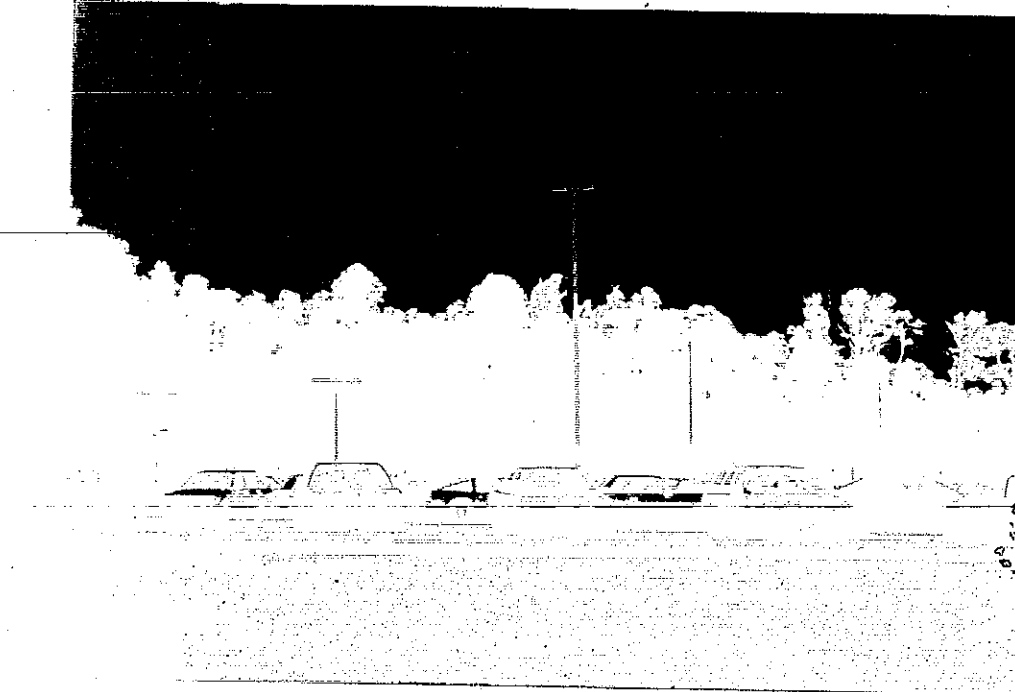
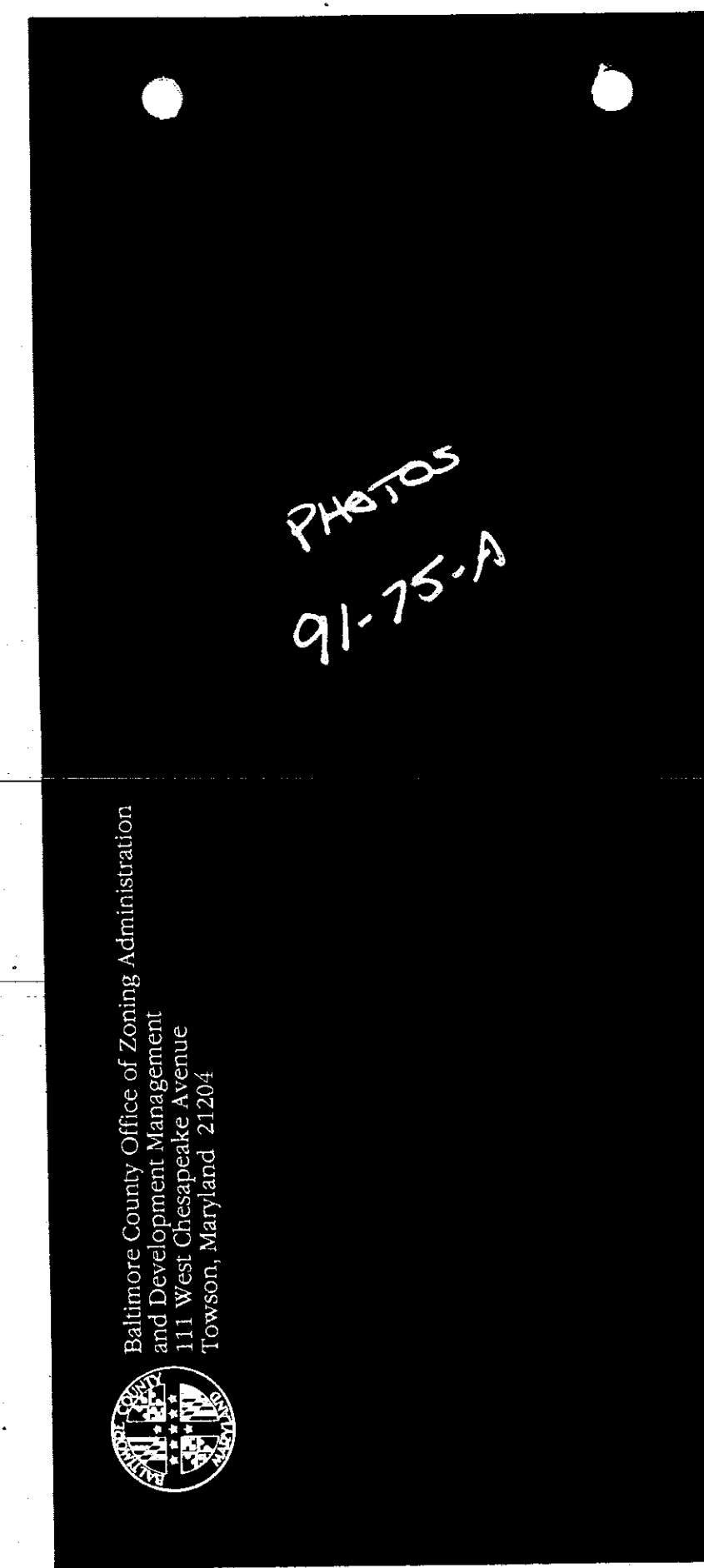
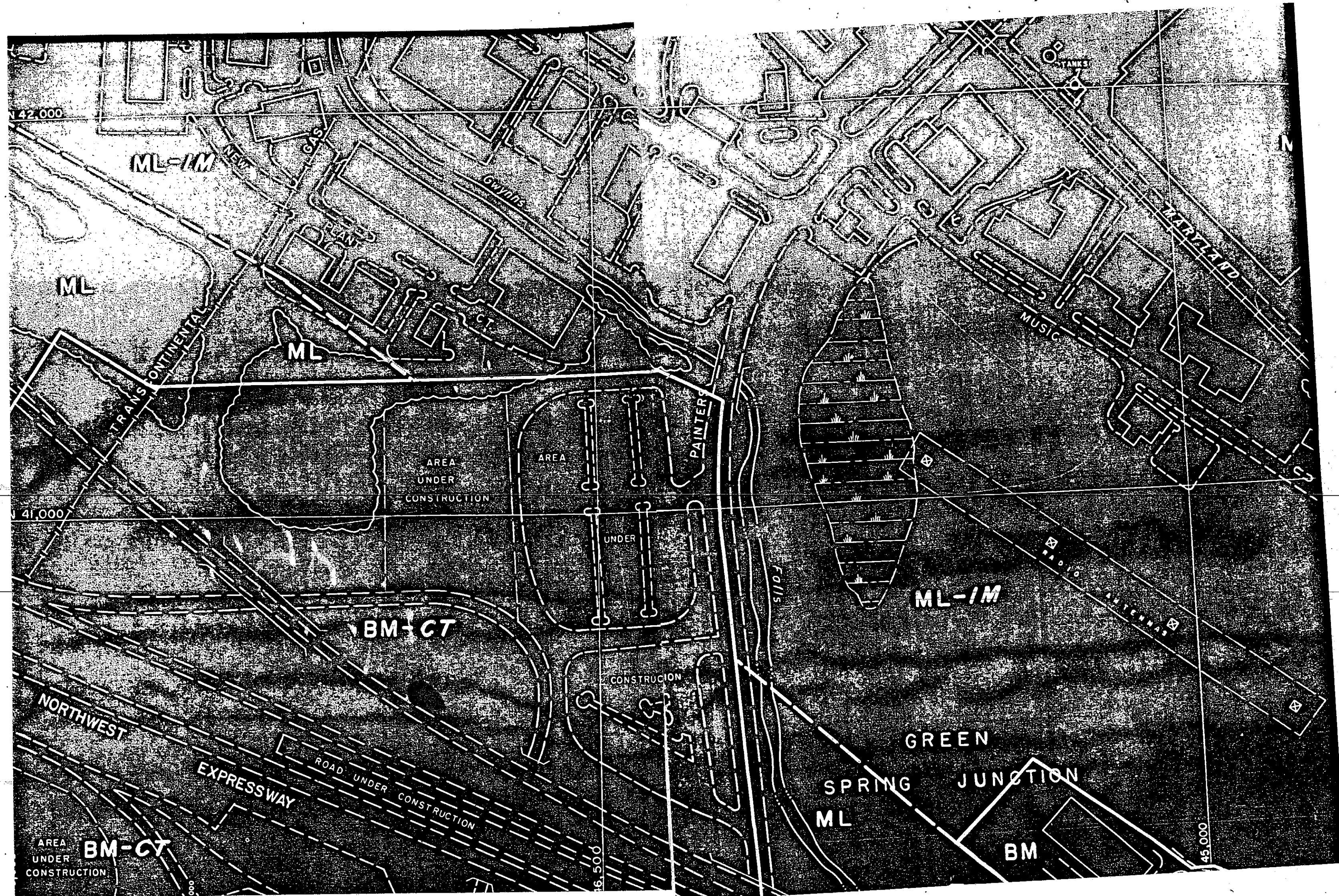
Dennis F. Rasmussen  
County Executive

RECEIVED  
APR 16 1990

ZONING OFFICE

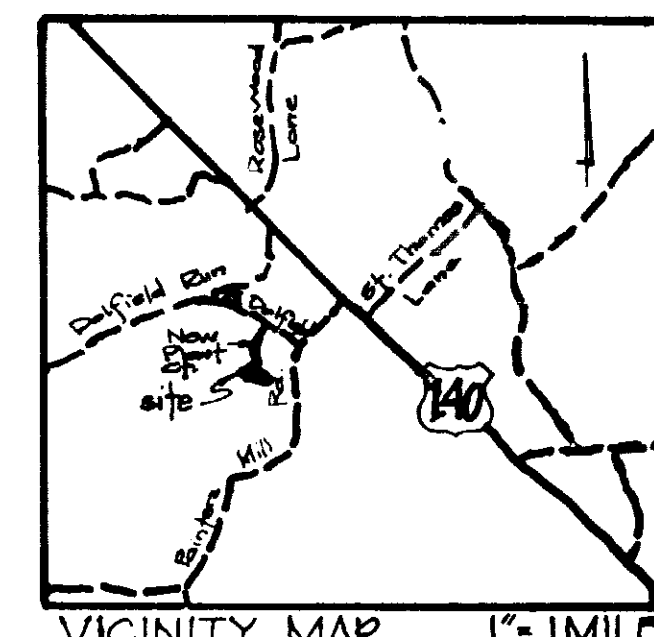








Notes:  
 1. Current title reference: Daniel G. Schuster & Jean K. Schuster  
 E.H.K. Jr. 6085 ~ III.  
 2. Current zoning: ML-1M.  
 3. No. of parking spaces required: 8 spaces  
 Office: 1st floor (500 SF) 1 every 500 SF = 2 spaces  
 2nd floor (1,240 SF) 1 every 500 SF = 3 spaces  
 Warehouse: 1 every 3 employees = 12 employees = 4 spaces  
 No. of spaces provided: 1 handicap + 9 = 10 spaces  
 4. No additional employees or office area for Concrete Batch Plant.  
 5. Proposed Silo: Total Available = 340 #  
 6. Proposed Silo Height: 63.75'



IN RE: PETITION FOR ZONING VARIANCE  
 54/8 New Plant Ct., 1300' SW  
 of the c/l of S. Dorfield Rd.  
 (54 New Plant Court)  
 4th Election District  
 3rd Councilmanic District  
 Daniel G. Schuster, et ux  
 Petitioners

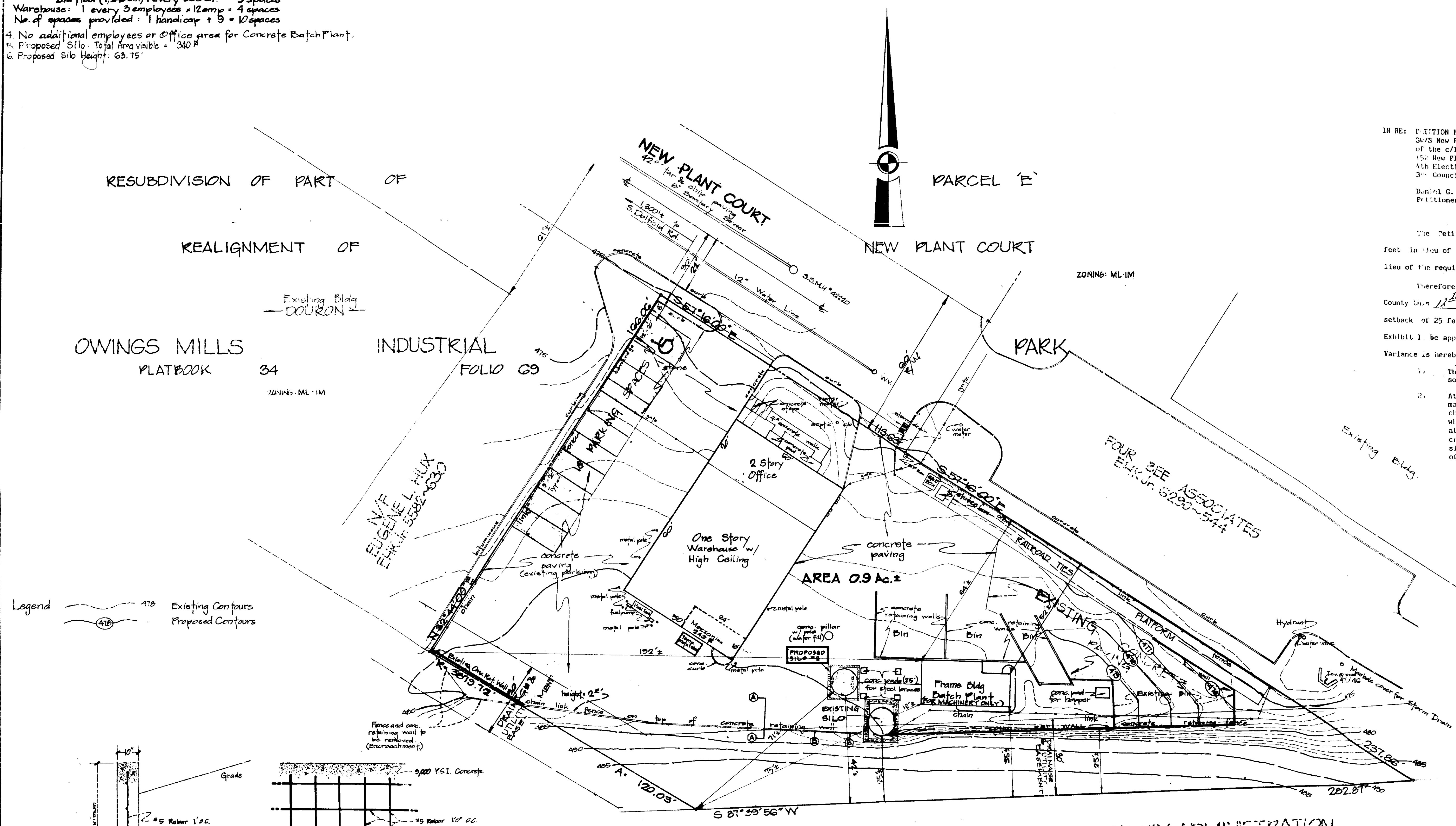
BEFORE THE  
 DEPUTY ZONING COMMISSIONER  
 OF BALTIMORE COUNTY  
 Case No. 87-446-A

The Petitioners herein request a variance to permit a height of 63.75 feet in lieu of the permitted 40 feet, and a rear yard setback of 25 feet in lieu of the required 30 feet for a cement storage silo.

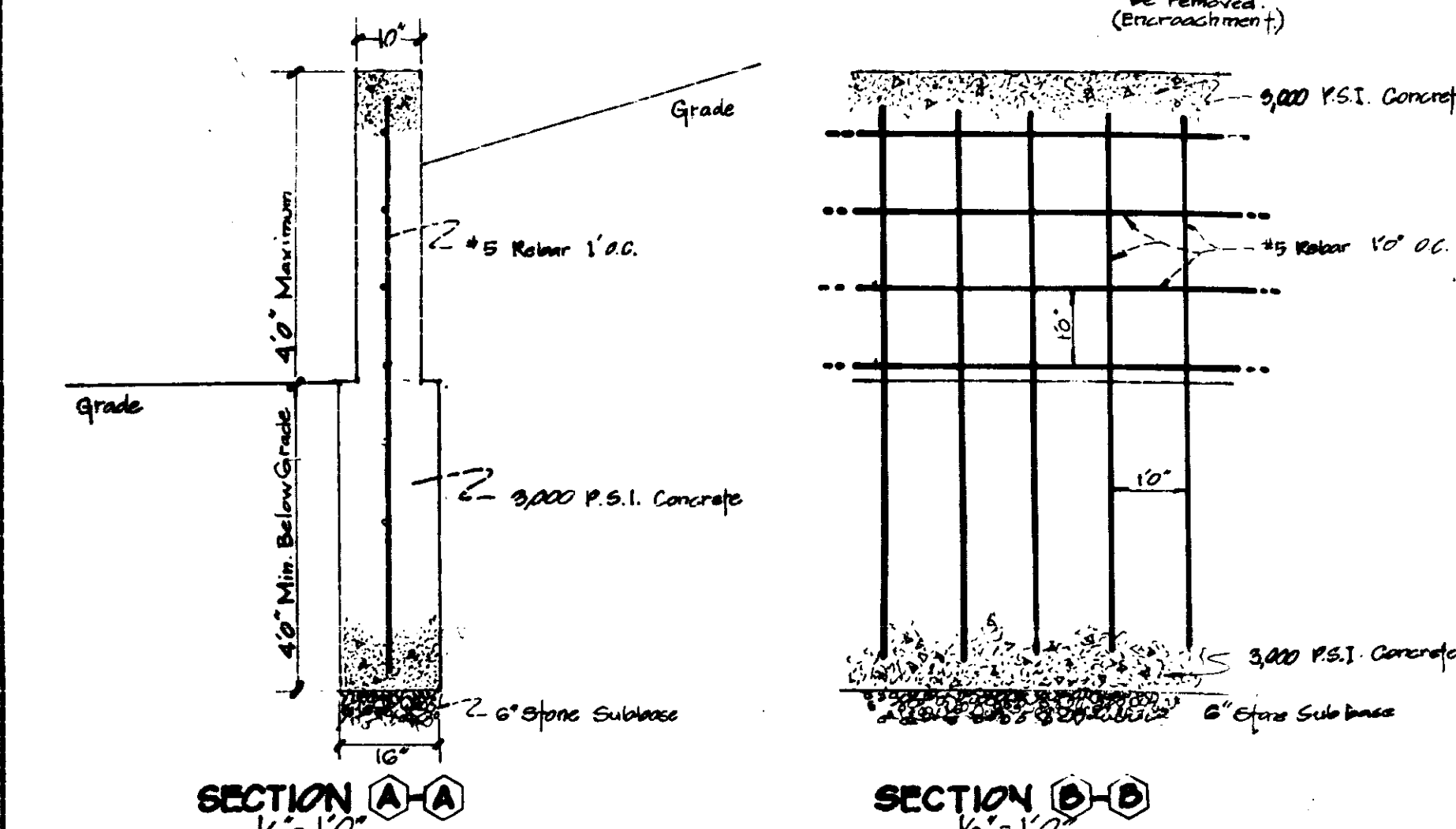
Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County on the 11th day of June 1987, that a height of 63.75 feet and a rear yard setback of 25 feet for a cement storage silo, in accordance with Petitioner's Exhibit 1, be approved in the instant case, and as such, the Petition for Zoning Variance is hereby GRANTED, subject, however to the following restrictions:

- The batching portion of the operation must remain accessory to the Petitioners' concrete construction business.
- At any such time as the ownership of the property or the management of the concrete construction business should change, a public hearing will be required to determine whether the concrete batching plant may continue to operate in an accessory capacity and, indeed, whether a concrete batching plant may be allowed in an ML-1M zoned site under Section 253.1A of the BCZM or under Sections of the BCZM applicable at that time.

*John M.H. Jung*  
 Deputy Zoning Commissioner  
 of Baltimore County



Legend  
 410 Existing Contours  
 410 Proposed Contours



STATE OF MARYLAND STATE HIGHWAY ADMINISTRATION  
 ZONING BM-CT

91-75-A  
 327

REVISED  
 SITE PLAN  
 FOR  
**DANIEL G. SCHUSTER INC.**  
 New Plant Ct. Owings Mills Industrial Park  
 Election District 4 Baltimore County, Md.  
 Scale: 1" = 20' June 11, 1986  
 6" 1565-87  
 PERMIT # 27580

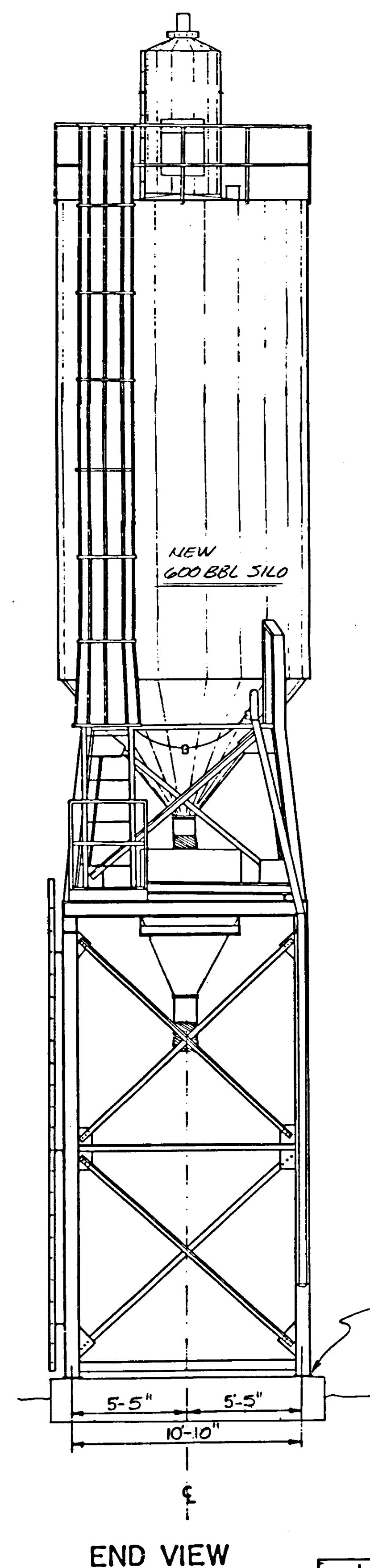
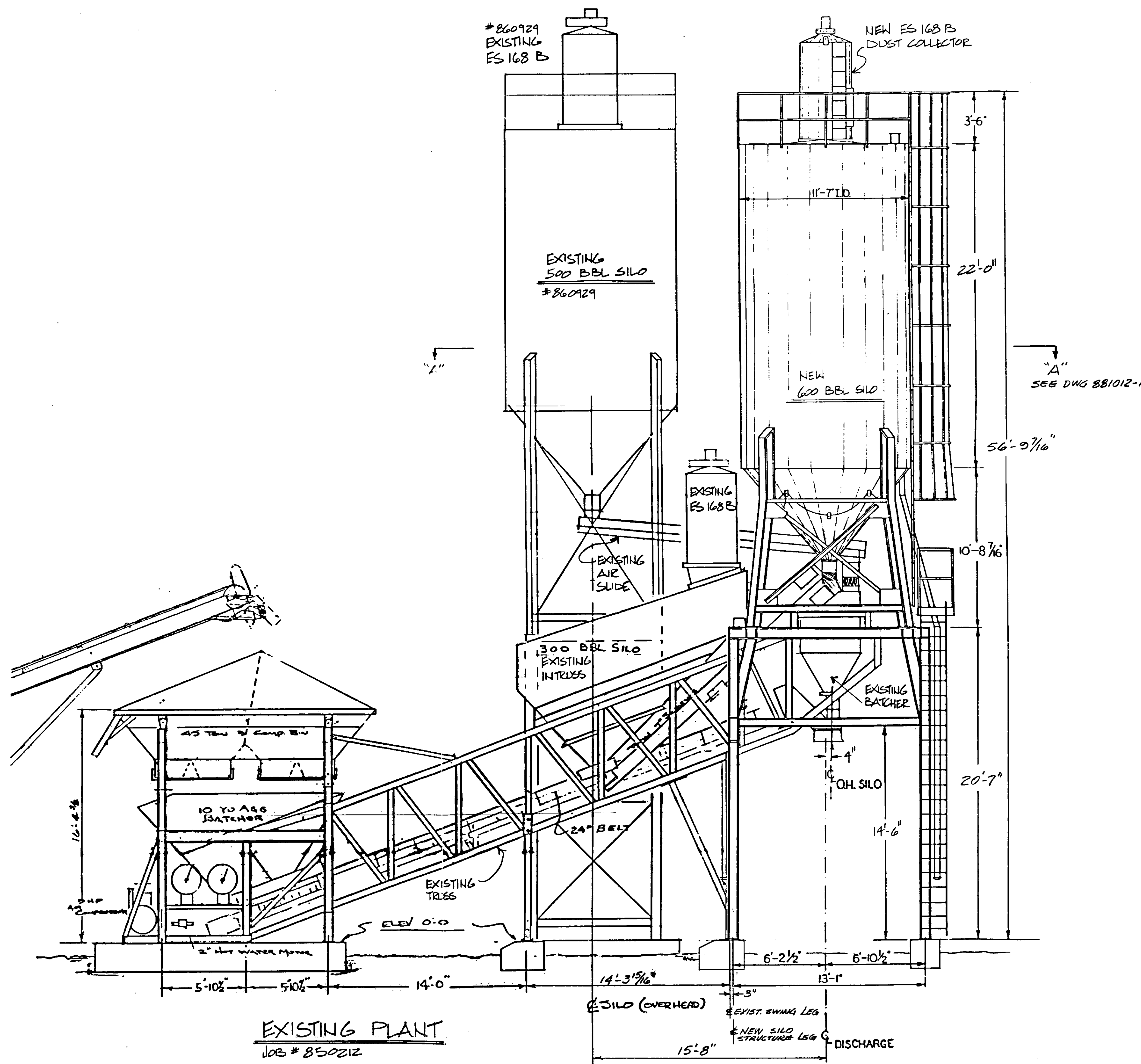


**PETITIONER'S  
 EXHIBIT 1**

REVISION: FEBRUARY 06, 1989 (PROPOSED SILO #2)  
 REVISION: NOVEMBER 13, 1986 (PROPOSED SILO)  
 REVISION: JANUARY 6, 1987 (NOTES 3 & 4, ADDING ZONING)  
 REVISION: SEPT. 16, 1987 (RE PUBLIC HEARING, REQUEST & DECISION)

A.L. SNYDER  
 SURVEYOR  
 1911 Hanover Pike  
 Hagerstown, Md. 21744  
 (301) 293-7744

*Albert R. Snyder*



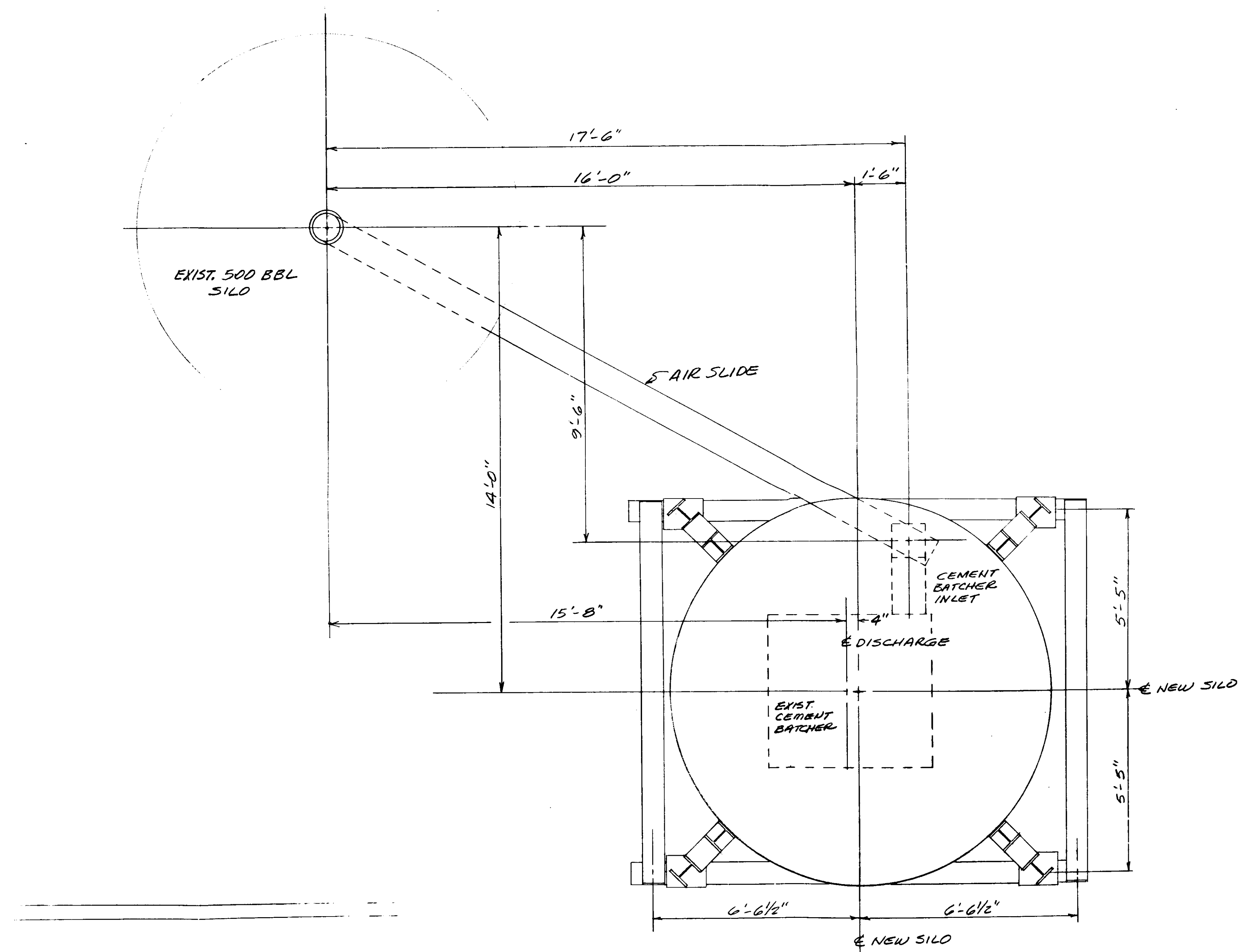
PETITIONER'S  
EXHIBIT 2

91-75A  
327

MADE FROM	REV	THE VINCE HAGAN COMPANY
850212-E		
OWNER		D.G. SCHUSTER, INC
DISC		CLARK AUTOMATIC
MODEL NO.		600-ES-168B
TITLE		600 BBL SILO ADDITION TO JOB
#		850212 & #860929
OWN. BY	CKD. BY	DATE REL SCALE DWG. NO. REV
ULM		2-8-89 1/4" = 1'-0" 881012-GA 0

REV	BY	DATE	DESCRIPTION





91-15-A

327

MADE FROM		REV.	THE VINCE HAGAN COMPANY	
OWNER:		D.G. SCHUSTER, INC		
DIST:		CLARK AUTOMATIC		
MODEL NO.:				
TITLE		SECTION "A-A" PLAN VIEW - AIRSLIDE		
DWN. BY	CKD. BY	DATE	REL. SCALE	DWG. NO.
		2-11-87		881012-1
REV. BY	DATE	DESCRIPTION		REV.
				0